

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

MAR 10 2005

**MATTHEW J. DYKMAN**  
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GRAND CHINA, INC.,

Defendant.

CR No. 05-385 JB and CR No. 04-  
1467 JB

**PLEA AGREEMENT**

Pursuant to Rule 11, Fed. R. Crim. P., the parties notify the Court of the following agreement between the United States Attorney for the District of New Mexico, the Defendant, GRAND CHINA, INC., and the Defendant's counsel, HOPE ECKERT, ESQ.:

**REPRESENTATION BY COUNSEL**

1. The Defendant understands its right to be represented by an attorney and is so represented. The Defendant has thoroughly reviewed all aspects of this case with its attorney and is fully satisfied with that attorney's legal representation.

**RIGHTS OF THE DEFENDANT**

2. The Defendant further understands its rights:
- a. to plead not guilty, or having already so pleaded, to persist in that plea;
  - b. to have a trial by jury; and

c. at a trial:

- 1) to confront and cross-examine adverse witnesses,
- 2) to testify and present evidence on the Defendant's own behalf, and
- 3) to compel the attendance of witnesses for the defense.

**WAIVER OF RIGHTS AND PLEA OF GUILTY**

3. The Defendant agrees to waive these rights and to plead guilty to Counts 1 through 11 of Indictment CR No. 04-1467 JB and Indictment CR No. 05-385 JB, charging violations of 26 U.S.C. § 7206(1), 8 U.S.C. §§ 1324(a)(1)(A)(v)(I), 1324(a)(1)(B)(i), 1324(a)(1)(A)(iv), 1324(a)(1)(v)(II), 1324(a)(1)(A)(iii), 1324(a)(1)(A)(v)(II), and 2, that being Making and Subscribing a False Tax Return, Aiding and Abetting, Conspiracy, Inducement, and Harboring.

**SENTENCING**

4. The Defendant understands that the minimum and maximum penalty the Court can impose is:

**Counts 1 through 11 of Indictment CR No. 04-1467 JB:**

- a. a fine not to exceed \$500,000.00 per count.
- b. a mandatory special penalty assessment of \$400.00 per count.

**Indictment CR No. 05-358 JB:**

- a. a fine not to exceed \$500,000.00 per count.
- b. a mandatory special penalty assessment of \$400.00 per count.

5. It is expressly understood and agreed by and between the defendant and the United States that:

a. Pursuant to Rule 11(c)(1)(C), Fed.R.Crim.P., and in consideration of the \$550,000.00 to be forfeited, no fine should be imposed.

b. The defendant is jointly and severally liable with its co-defendants in the instant case and in Superseding Indictment CR No. 04-1468 JB for \$550,000.00. This amount is to be forfeited to the Department of Homeland Security ICE Asset Forfeiture, the total to be paid by the time of sentencing. This amount is to be paid in the form of cashier's checks made payable to the Department of Homeland Security ICE and delivered to ICE SA Kelley Wigley. The amount of \$550,000.00 includes the amount seized from the Bank of America checking account #004272048142 maintained by Grand China, Inc. and \$8,919.00 seized on April 6, 2004 from the restaurant.

c. This plea agreement does not prohibit the United States, through any agency thereof, from initiating or prosecuting any civil proceeding directly or indirectly involving the defendant, including but not limited to civil proceedings by the Internal Revenue Service relating to potential tax liability.

d. The United States hereby expressly reserves the right to make known to the United States Probation Office, for inclusion in the presentence report prepared pursuant to Rule 32, Fed.R.Crim.P., any information that the United States believes may be helpful to the Court.

**FACTUAL BASIS**

6. If this matter were to proceed to trial, the United States would prove the following facts with competent, admissible evidence beyond a reasonable doubt:

As to Counts 1 through 11 and within the dates and places specified in the Indictment:

a. The defendant did conspire and agree with others to induce and harbor aliens to remain and reside in the United States, knowingly and in reckless disregard of the fact that each alien had come to, entered, or remained in the United States in violation of law, for the purpose of commercial advantage and private financial gain.

b. The aliens harbored and induced to reside in the United States include, among others, G. L. I., A97 895 399, of Guatemala; B. H., A76 282 122, of Indonesia; Z. J. Z., A78 745 485, of China; D. L., A71 603 552, of China; J. L. P., A78 923 661 of Mexico; and J. D. D., A78 923 662, of Mexico.

c. The aliens, G. L. I., A97 895 399, of Guatemala and B. H., A76 282 122, of Indonesia, were harbored at the Eagle Ranch Apartments in Albuquerque, New Mexico. The rent for said apartment was paid from the checking account of Grand China, Inc.

d. The aliens, Z. J. Z., A78 745 485, of China and D. L., A71 603 552, of China, were harbored at 2216 Sea Breeze in Albuquerque, New Mexico.

e. The aforementioned illegal aliens, among others, were unlawfully employed by the Grand China, Inc. restaurant.

f. The illegal aliens employed by ~~China Star, Inc., d/b/a China Wok~~ **GRAND CHINA, INC**

were not paid according to Department of Labor standards, nor did the restaurant pay its portion of FICA and FUTA.

As to Indictment CR No. 05-385 JB and within the dates and places specified in the Indictment:

g. The defendant under reported its gross income to the I.R.S. for the tax year of 2003 in the amount of \$1,076,499.00.

7. By signing this agreement, the defendant admits all the foregoing facts.

**DEFENDANT'S ADDITIONAL OBLIGATIONS**

8. The defendant understands the defendant's obligation to provide the United States Probation Office with truthful, accurate, and complete information. The defendant represents that the defendant has complied with and will continue to comply with this obligation.

**WAIVER OF APPEAL RIGHTS**

9. The defendant is aware that 18 U.S.C. §§ 1291 and 3742 afford a defendant the right to appeal a conviction. Acknowledging that, the defendant knowingly waives the right to appeal the defendant's conviction.

**GOVERNMENT'S AGREEMENT**

10. Provided that the defendant fulfills the defendant's obligations as set out above, the United States agrees that:

a. The United States will move at the time of sentencing to dismiss Counts 12 through 26 in Indictment No. 04-1467 JB as to this defendant only.

b. The United States will not bring additional criminal charges against the defendant arising out of the defendant's conduct now known to the United States Attorney's Office for the District of New Mexico.

11. This agreement is limited to the United States Attorney's Office for the District of New Mexico and does not bind any other federal, state, or local agencies or prosecuting authorities.

#### **VOLUNTARY PLEA**

12. The defendant agrees and represents that this plea of guilty is freely and voluntarily made and is not the result of force, threats, or promises (other than the promises set forth in this agreement).

#### **VIOLATION OF PLEA AGREEMENT**

13. The defendant understands and agrees that if the defendant violates any provision of this agreement, the United States may declare this agreement null and void, and the defendant will thereafter be subject to prosecution for any criminal violation, including but not limited to any crime(s) or offense(s) contained in or related to the charges in this case, as well as perjury, false statement, obstruction of justice, and any other crime committed by the defendant during this prosecution.

#### **SPECIAL ASSESSMENT**

14. At the time of sentencing, the defendant will tender to the United States District Court, District of New Mexico, 333 Lomas Blvd. NW, Suite 270, Albuquerque, New Mexico 87102, a money order or certified check payable to the order of the **United States District Court** in the amount of \$4,800.00 in payment of the special penalty assessment described above.

**ENTIRETY OF AGREEMENT**

15. This document is a complete statement of the agreement in this case and may not be altered unless done so in writing and signed by all parties.

AGREED TO AND SIGNED this 10<sup>th</sup> day of March, 2005.

DAVID C. IGLESIAS  
United States Attorney

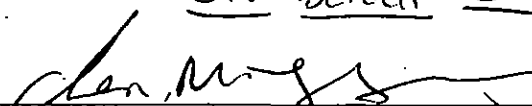


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HOPE ECKERT, ESQ.  
Attorney for Defendant

I have read this agreement and carefully reviewed every part of it with my attorney. I understand the agreement and voluntarily sign it. On behalf of



GRAND CHINA, INC. (President)  
Defendant